

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

September 3, 2003

ORDER APPROVING
STIPULATION (PART ONE)

MAINE PUBLIC SERVICE COMPANY
Request for Approval of Alternative Rate Plan

Docket No. 2003-85

MAINE PUBLIC SERVICE COMPANY
Application for Approval of Issuance of
Second Mortgage and Collateral Trust Bonds
to Secure New Letter of Credit Issued
Pursuant to Amendment No. 4 to the Letter
of Credit and Reimbursement Agreement
(Section 1101) (\$14,400,000)

Docket No. 2002-256

MAINE PUBLIC SERVICE COMPANY
Application for Approval of Issue of Securities
(Section 902) (\$15,000,000) and for Approval
of Second Mortgage (Section 1101)
(\$15,875,000)

Docket No. 1996-241

MAINE PUBLIC SERVICE COMPANY
Application for Approval of Issue of Securities
(Section 902) (\$9,525,000)

Docket No. 2000-542

MAINE PUBLIC SERVICE COMPANY
Application for Approval of Issuance of
Securities and Mortgage Bonds (Section 902,
1101) (\$14,000,000)

Docket No. 1998-210

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

On March 6, 2003, Maine Public Service Company (MPS or the Company) filed an Alternative Rate Plan (ARP) proposal requesting a \$1.267 million increase in distribution revenues as a "starting point" for its proposed seven-year ARP. The ARP Proposal also contemplated annual rate adjustments based on inflation, an independent adjustment tracking changes in interest rates, an economic conditions factor, an allowance for extraordinary costs, pricing flexibility, an earnings sharing feature around a "deadband," and service quality indices with rewards and penalties tracking the Company's performance.

In this Order, we approve a Stipulation submitted by MPS, the Office of the Public Advocate (OPA), McCain Foods, Inc. (McCain) and J.M. Huber, Inc. (Huber) in the above-referenced dockets. The Stipulation allows MPS to increase its distribution rates by an amount sufficient to produce an increase in distribution revenues of not more than \$940,000 and to enter into a "Hedge Program" which would serve to fix the Company's long-term debt rate which is currently variable. In order to allow MPS the opportunity to take advantage of current market conditions as early as possible, pursuant to our authority under Section 1003 of the Commission's Rules of Practice and Procedure, we will issue our Order Approving Stipulation in two parts. Part One, issued today, sets forth the result of the Commission decision, specifies the orders made by the Commission, and summarizes the findings and conclusions reached by the Commission. The second part of the Order will contain the full findings and the reasons in support of the Commission's decision.

II. DESCRIPTION OF THE STIPULATION

Under the terms of the Stipulation, MPS may increase its rates by an amount sufficient to produce an increase in its distribution revenues of not more than \$940,000, of which \$306,827 is associated with the cost of the Hedge Program, for a total distribution revenue requirement of \$16,068,714. The agreed-upon distribution revenue requirement is predicated upon a 2002 actual test year with various pro forma adjustments and an allowed return on common equity of 10.25%. The revenue requirement amounts shall be subject to adjustment when the cost of the Hedge Program has been established.

Under the proposed Hedge Program, the Company will continue to pay its debt-holders based on its existing agreements with them, which shall continue in effect and unamended. Currently all of the Company's long-term debt instruments contain variable interest rates. MPS is prepared to enter into "swaps" to fix the interest costs on all of its long-term debt through the maturity of each series of debt. The interest rates paid to the existing debt-holders will, therefore, continue to vary over time with market conditions. In separate swap transactions, however, the Company will pay one or more counterparties the difference between the variable interest rate (the "Actual Rate") and the agreed-upon swap rate (the "Swap Rate") for so long as the Actual Rate is less than the Swap Rate for any series of debt. If the Actual Rate exceeds the Swap Rate for any series of debt, the counterparty pays MPS the difference. Thus, the net economic effect of keeping the existing arrangements with its debt-holders in place, while implementing the Hedge Program, is to allow MPS to fix the interest rates on its debt for the balance of the maturity of each series of debt.

Since the prices of these instruments change on an hour-by-hour basis, the exact cost of the Program will not become known until the Company has purchased the swaps that comprise the Program. Accordingly, the parties agree that upon the issuance of a Commission Order accepting the Stipulation, the Company may implement the Hedge Program by purchasing the swaps up to an amount that the total distribution revenue requirement increase does not exceed \$1,050,000. The Company

shall then make a supplemental filing in this docket documenting the actual interest rates achieved by the Hedge Program.

Upon verification of the swap rates by the parties and the Commission, the provisional distribution revenue requirement amount, and therefore the provisional distribution rate increase amount, shall be adjusted by deducting the current "placeholder" test year pro forma adjustment for the cost of long-term debt program of \$306,827, and substituting therefore the actual additional debt cost (above test year long-term debt costs) of the Program. Irrespective of the actual cost of the Hedge Program, however, the total amount of the distribution revenue increase to be implemented in this case shall not exceed \$940,000.

The Company shall file new rate sheets, developed in a manner consistent with the Stipulation, reflecting the final revenue requirement amount. If the actual costs exceed the allowed amount, the Company shall be allowed, in a future rate proceeding, the option to demonstrate that its Hedge Program was reasonable and prudent and that the full cost of the Program should be allowed in rates (on a going-forward basis). The parties to the Stipulation agree to use best efforts to cause the rate adjustment to take effect for service rendered on and after September 15, but not later than October 1, 2003.

The ARP aspects of the MPS proposal are not disposed of under the Stipulation. MPS will notify the Commission by December 31, 2003 if it wishes to proceed with its ARP proposal in a Phase 2 of this docket. If it elects not to proceed, then this docket shall be closed.

III. DECISION

We find that both the proposed Hedge Program and the overall revenue requirement agreed to by the parties to the Stipulation are reasonable, consistent with the public interest and satisfy all legislative mandates. In addition, based on our review of the record, we find that the parties to the Stipulation represent a sufficiently broad spectrum of interests and that the process that led to the Stipulation was fair to all parties. We are satisfied that there has not been, nor is there the appearance of, disenfranchisement. We thus conclude that all of the required criteria for approval of a Stipulation have been met in this instance. See e.g., *Central Maine Power Company, Request for Approval of Alternative Rate Plan (Post Merger) "ARP 2000"*, Docket No. 99-666, Order Approving Stipulation at 11, (Nov. 16, 2000).

Accordingly, we

O R D E R

1. That the August 28, 2003 Stipulation submitted by MPS, the OPA, McCain and Huber in Docket Nos. 2003-85, 2002-256, 2000-542, 1998-210 and 1996-241 is

approved. The Stipulation is attached hereto as Appendix One, and is incorporated by reference into this Order.

2. That MPS is authorized to enter into the Hedge Program proposed in the Stipulation. Accordingly, our prior Orders issued in *Maine Public Service Company, Application for Approval of Issuance of Second Mortgage and Collateral Trust Bonds to Secure New Letter of Credit Issued Pursuant to amendment No. 4 to the Letter of Credit and Reimbursement Agreement (Section 1101) (\$14,400,000)*, Docket No. 2002-256, *Maine Public Service Company, Application for Approval of Issue of Securities (Section 902) (\$15,000,000)* and for *Approval of Second Mortgage (Section 1101) (\$15,875,000)*, Docket No. 96-241, *Maine Public Service Company, Application for Approval of Issue of Securities (Section 902) (\$9,525,000)*, Docket No. 2000-542, and *Maine Public Service Company, Application for Approval of Issue of Securities and Mortgage Bonds (Section 902, 1101) (\$14,000,000)*, Docket No. 98-210 are amended to authorize the company to enter into the Hedge Program, as described in the Stipulation, so long as the total cost of the Hedge Program is less than the amount which, when included in the total allowed distribution revenue increase, would result in a total allowed distribution revenue increase of \$1,050,000.

Dated at Augusta, Maine, this 3rd day of September, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.